

**IN THE COURT OF APPEALS**  
**FIRST APPELLATE DISTRICT OF OHIO**  
**HAMILTON COUNTY, OHIO**

IN RE: A.F. and S.F.C.	:	APPEAL NO. C-170041
	:	TRIAL NO. F05-522X
	:	<i>JUDGMENT ENTRY.</i>
	:	

We consider this appeal on the accelerated calendar, and this judgment entry is not an opinion of the court. *See* R.Rep.Op. 3.1; App.R. 11.1(E); 1st Dist. Loc.R. 11.1.1.

Bringing forth two assignments of error, the mother of A.F. and S.F.C. appeals the trial court's grant of permanent custody to the Hamilton County Department of Job and Family Services ("JFS"). For the following reasons, we affirm the trial court's judgment.

In her first assignment of error, mother contends that the trial court's decision granting permanent custody to JFS was not supported by clear and convincing evidence. We are unpersuaded.

The termination of parental rights is governed by R.C. 2151.414. Before a juvenile court may terminate parental rights, it must first find that it is in the child's best interests to be placed in the permanent custody of the moving agency. R.C. 2151.414(B)(1) and (D). It must also find one of the conditions listed in R.C. 2151.414(B)(1). The court must find both prongs by clear and convincing evidence. We will not substitute our judgment for that of the trial court where some competent

and credible evidence supports the essential elements of the case. *See, e.g., In re W.W.*, 1st Dist. Hamilton Nos. C-110363 and C-110402, 2011-Ohio-4912, ¶ 46.

A.F., who is currently 15 years old, and S.F.C., who is currently 12 years old, were removed from mother's home in January 2014 after mother's live-in boyfriend was arrested for sexually assaulting the children's older sister. At the time that the motion for permanent custody was filed on May 2, 2016, the children had been in the temporary custody of JFS for 27 months. Thus, the trial court's finding that the children had been in the temporary custody of a public children services agency for 12 or more months of a consecutive 22-month period is supported by clear and convincing evidence. Therefore, the issue remaining is whether the trial court's finding that a grant of permanent custody was in the children's best interests is supported by clear and convincing evidence. We hold that it is.

The guardian ad litem was in favor of a grant of permanent custody to JFS. At the permanent-custody hearing, the only witness was Stephanie Smith, the JFS caseworker. She testified that the children do not have a relationship with their father. Father has housing issues (hoarding) and has not visited the children in three years, although he initially participated in, but did not complete, services offered through JFS. Mother has willingly participated in services and completed them, including a parenting program, Women Helping Women and counseling. Mother loves the children and is bonded to them. The children do not want to be adopted, but instead want to return to live with their mother.

Despite the children's relationship with mother, Smith testified that a grant of permanent custody is in the best interests of the children. Although mother completed all the services asked of her, JFS believes mother did not benefit from them because up to a month before the permanent-custody hearing mother had a

live-in boyfriend, who had a criminal history. Mother initially denied that the boyfriend lived in her apartment, but later admitted that he “stayed there.” Smith testified that she had told mother several times that having the boyfriend in her house would inhibit reunification with the children. Mother eventually said she would have boyfriend move out. But mother, who has a history of “domestic violence relationships,” told the caseworker that whenever she asked the boyfriend to leave, he would become aggressive. As noted, he was still living there one month before the permanent-custody hearing. Smith testified that mother does not have the ability to protect the children from potential harm from others.

Additionally, mother’s visitation rights with children had not advanced past supervised visitation because she kept sharing inappropriate information with the children about their father and had asked to borrow money from the older child, A.F.

Given the foregoing, we hold that there was clear and convincing evidence to support the trial court’s grant of permanent custody to JFS. The first assignment of error is overruled.

In her second assignment of error, mother argues that the trial court erred by not placing the older child, A.F., into a planned permanent living arrangement (“PPLA”). But the trial court does not have the authority to do that under in the holding in *In re A.B.*, 110 Ohio St.3d 230, 2006-Ohio-4359, 852 N.E.2d 1187. In that case, the Ohio Supreme Court held that a juvenile court lacks the authority to place children in a PPLA after a grant of temporary custody to a public children services agency absent a request by the agency for such a placement.

Here, JFS only sought permanent custody and did not request for A.F. to be placed in a PPLA. Accordingly, we cannot say that the trial court erred by not placing A.F. in a PPLA. The second assignment of error is overruled.

The judgment of the trial court is affirmed.

Further, a certified copy of this judgment entry shall constitute the mandate, which shall be sent to the trial court under App.R. 27. Costs shall be taxed under App.R. 24.

**MOCK, P.J., ZAYAS and MYERS, JJ.**

To the clerk:

Enter upon the journal of the court on May 31, 2017  
per order of the court \_\_\_\_\_.  
Presiding Judge